

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 07 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN ALFONSO CASTILLO-  
CASTELLANOS, aka Juan Alfonso  
Castillo,

Defendant - Appellant.

No. 06-10516

D.C. No. CR-04-00077-SI

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Susan Yvonne Illston, District Judge, Presiding

Submitted June 18, 2008\*\*

Before: REINHARDT, LEAVY, and CLIFTON, Circuit Judges.

Following a limited remand pursuant to *United States v. Ameline*, 409 F.3d

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

1073 (9th Cir. 2005) (en banc), Juan Alfonso Castillo-Castellanos appeals from the district court's order concluding that it would have imposed the same 86-month sentence had it known that the Sentencing Guidelines were advisory. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Castillo-Castellanos contends that the district court erred by not resentencing him on remand. However, because we ordered a limited remand pursuant to *Ameline* and the district court subsequently ruled that it would not have imposed a different sentence had it known that the Guidelines were advisory, Castillo-Castellanos was not entitled to resentencing. *See United States v. Combs*, 470 F.3d 1294, 1296-97 (9th Cir.), *cert. denied*, 128 S. Ct. 1071 (2008); *see also United States v. Perez*, 475 F.3d 1110, 1114 (9th Cir. 2007) (holding that a district court is required to comply with this Court's mandate). We also hold that Castillo-Castellanos was not entitled to a new presentence report on remand. *Cf. United States v. Silva*, 472 F.3d 683, 689 (9th Cir.), *cert. denied*, 128 S. Ct. 201 (2007).

Castillo-Castellanos also contends that his sentence is substantively unreasonable. We conclude that the sentence is reasonable in light of the factors contained in 18 U.S.C. § 3553(a). *See Gall v. United States*, 128 S. Ct. 586, 594 (2007).

**AFFIRMED.**